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**From:** Waye, Don  
**To:** Jacobson, Martin  
**CC:** Henning, Alan; Wu, Jennifer  
**Sent:** 2/19/2015 4:59:14 PM  
**Subject:** OR CZARA: Required components for acceptable voluntary programs  
**Attachments:** 1998 Final 6217 Administrative Changes,NOAA-EPA.pdf

Marty,

Here's what EPA & NOAA require for approvable voluntary programs. It comes from our 1998 guidance attached.

**Enforceable Policies and Mechanisms**

NOAA and EPA will approve those program elements for which states have proposed voluntary or incentive-based programs, backed by existing state enforcement authorities, if the following is provided:

1. a legal opinion from the attorney general or an attorney representing the agency with jurisdiction for enforcement that such authorities can be used to prevent nonpoint pollution and require management measure implementation, as necessary;
2. a description of the voluntary or incentive-based programs, including the methods for tracking and evaluating those programs, the states will use to encourage implementation of the management measures; and
3. a description of the mechanism or process that links the implementing agency with the enforcement agency and a commitment to use the existing enforcement authorities where necessary.

Don Waye  
U.S. EPA - Nonpoint Source Control Branch  
Phone: 202-566-1170

**From:** Carlin, Jayne  
**Sent:** Monday, February 09, 2015 8:09 PM  
**To:** Jacobson, Martin  
**Cc:** Henning, Alan; Wu, Jennifer; allison.castellan@noaa.gov; Flahive, Katie; Waye, Don  
**Subject:** OR CZARA: Ag Documents

Hi Marty,

Below are documents pertaining to the agricultural MMs under OR CZARA. Note: Pertinent comments submitted during the public comment period will be provided in a separate email but this will help get you started.

OREGON COASTAL NONPOINT PROGRAM NOAA/EPA PROPOSED FINDING (December 20, 2013)(see pages 1, 12-14) <http://coast.noaa.gov/czm/pollutioncontrol/media/OR%20CZARA%20Decision%20Doc%2012-20-13.pdf>

FINDINGS FOR THE OREGON COASTAL NONPOINT PROGRAM (1/13/1998) (see Part II)  
<http://coast.noaa.gov/czm/pollutioncontrol/media/findor.txt>

OREGON'S RESPONSE TO PROPOSED FINDINGS (March 20, 2014) (see pages 20-36)  
<http://coast.noaa.gov/czm/pollutioncontrol/media/StateofOregonCZARAsubmittal3-20-14.pdf>

NOAA/EPA FINDING THAT OREGON HAS NOT SUBMITTED A FULLY APPROVABLE COASTAL NONPOINT PROGRAM (January 30, 2015)(see pages 1-3, 21-22)  
<http://coast.noaa.gov/czm/pollutioncontrol/media/ORCZARAdesicion013015.pdf>

NOAA AND EPA RESPONSE TO COMMENTS REGARDING THE AGENCIES' PROPOSED FINDING THAT OREGON HAS NOT SUBMITTED A FULLY APPROVABLE COASTAL NONPOINT PROGRAM (January 30, 2015) (see pages 3, 42-55)

<http://coast.noaa.gov/czm/pollutioncontrol/media/ORCZARARtC.pdf>

NOAA AND EPA PRELIMINARY DECISIONS ON INFORMATION SUBMITTED BY OREGON TO MEET COASTAL NONPOINT PROGRAM CONDITIONS (Interim Approval Decisions Only)(Input from Oregon 7-15-13) (pages 2-7)

<http://coast.noaa.gov/czm/pollutioncontrol/media/References%20C-2a%20OR%206217%20Draft%20Compiled%20Interim%20Decisions.pdf>

PLAN FOR MEETING THREE REMAINING MEASURES (July 1, 2013) (page 1)

<http://coast.noaa.gov/czm/pollutioncontrol/media/References%20C-3%20Oregon%20Cvr%20Ltr%207-1-2013.pdf>

OREGON COASTAL NONPOINT POLLUTION CONTROL PROGRAM; ADDITIONAL INFORMATION CONCERNING OREGON'S FAILURE TO REGULATE AGRICULTURAL NONPOINT POLLUTION (May 10, 2013) (all pages & enclosures)

<http://coast.noaa.gov/czm/pollutioncontrol/media/References%20C-4%20NWEA%20Cvr%20Ltr%20Add%20Info%20on%20Ag%205-10-13.pdf> Enclosures:

[Support for Slight Modifications to Riparian Matrix. Letter from Will Stelle, NOAA National Marine Fisheries Service to Roylene Rides-at-the-Door, U.S. Department of Agriculture and Dennis McLerran, EPA, April 9, 2013.](#)

[EPA Oversight of Trading in Oregon Permits Needed to Ensure Consistency with EPA Regulations Implementing the Clean Water Act. Letter from Nina Bell, Northwest Environmental Advocates to Michael Lidgard, EPA, March 15, 2013.](#)

[Generalized Decision Path for Assessing Compliance with Mid-Coast Agricultural Rules OAR 603-095-2200 for Establishment and Development of Riparian Vegetation \(Draft\), April 11, 2011.](#)

[Addressing Treaty Rights Issues Associated with Continuing Loss of Habitat Productivity of Importance to Salmon and Steelhead Pollutions and other Fishery Resources in the Pacific Northwest. Letter from Will Stelle, NOAA National Marine Fisheries Service to Roylene Rides-at-the Door, U.S. Department of Agriculture and Dennis McLerran, EPA, January 30, 2013. Enclosures include:](#)

[Interim Riparian Buffer Recommendations for Streams in Puget Sound Agricultural Landscapes, November 2012.](#)

[Review of "Efficacy and Economics of Riparian Buffers on Agricultural Lands. Memorandum from Dr. Usha Varanasi, Northwest Fisheries Science Center to Robert Lohn, National Marine Fisheries Service, March 17, 2003.](#)

OREGON COASTAL NONPOINT POLLUTION CONTROL PROGRAM; EPA AND NOAA'S INTERIM APPROVAL OF AGRICULTURAL MANAGEMENT MEASURES FOR OREGON ARE BASED ON A FLAWED UNDERSTANDING OF THE STATE'S ENFORCEMENT AUTHORITY (June 13, 2012) (see all pages & enclosures)

<http://coast.noaa.gov/czm/pollutioncontrol/media/References%20C-8%20NWEA%20CZARA%20Agr%20Ltr%20on%20Enf%206-13-12.pdf> Enclosures:

[Interpretation of Oregon Department of Agriculture Area Rules. Letter from Nina Bell, Northwest Environmental Advocates, to Dave Wilkinson, Oregon Department of Agriculture, May 24, 2012.](#)

[Interpretation of Oregon Department of Agriculture Basin Rules. Letter from Nina Bell, Northwest Environmental Advocates to Lisa Hanson, Deputy Director, Oregon Department of Agriculture, June 13, 2012.](#)

[Memorandum of Agreement between Oregon Department of Agriculture and Oregon Department of Environmental Quality Relating to Agricultural Nonpoint Source Pollution, May 17, 2012.](#)

OREGON COASTAL NONPOINT POLLUTION CONTROL PROGRAM; EPA AND NOAA'S INTERIM APPROVAL OF AGRICULTURAL MANAGEMENT MEASURES FOR OREGON (May 2, 2012)(see all pages and appropriate enclosures). <http://coast.noaa.gov/czm/pollutioncontrol/media/References%20C-9%20NWEA%20Ag%20Ltr%205-2-12.pdf>

Enclosures include:

[Email and Attachments from Alex Manderson, Food Safety Division, Oregon Department of Agriculture, March 19, 2012.](#)

[Email from Dave Wilkinson, Water Quality Program Manager, Oregon Department of Agriculture, to Nina Bell, Northwest Environmental Advocates March 3, 2012.](#)

[Report on the Enforcement of the Clean Water Act as it relates to CAFOs \(Concentrated Animal Feeding Operations\). Oregon Department of Agriculture, Animal Law Clinic, November 8, 2011.](#)

North Coast Basin Agricultural Water Quality Management Area, North Coast Basin Local Advisory Committee, September 2011.

Stout, H.A., et al. "Scientific conclusions of the status review for Oregon Coast coho salmon (*Oncorhynchus kisutch*).," Draft report from the Biological Review Team, Northwest Fisheries Science Center, May 20, 2010  
2010 Tillamook Bay Watershed Health Report. Tillamook Estuaries Partnership.

Oregon CAFO NPDES (National Pollutant Discharge Elimination System) General Permit 01-2009.

Anlauf, K. J., K. K. Jones, and C.H. Stein. "The Status and Trend of Physical Habitat and Rearing Potential in Coho Bearing Streams in the Oregon Coastal Coho Evolutionary Significant Unit," OPSW-ODFW-2009-5, ODFW (2009).

Orin C. Shanks et al. Basin-Wide Analysis of the Dynamics of Fecal Contamination and Fecal Source Identification in Tillamook Bay, Oregon. Applied and Environmental Microbiology, 72 (August 2006): 5537-5546. Document is copyrighted. Cannot make available electronically. See hard copy.

M.F. Solazzi, et al. Effects of increasing winter rearing habitat on abundance of salmonids in two coastal Oregon streams. Canadian Journal of Fisheries and Aquatic Sciences, 57 (2000): 906-914. Document is copyrighted. Cannot make available electronically. See hard copy.

Memorandum of Agreement Between the Oregon Department of Agriculture and the Oregon Department of Environmental Quality concerning Water Quality Limited Waterbodies (303(d)), Total Maximum Daily Loads (TMDLs) and Agricultural Water Quality Management Area Plans, June 6, 1998.

Appendix D, Nestucca Bay Watershed TMDL Water Quality Management Plan (WQMP), Oregon Department of Environmental Quality, April 2002.

National Marine Fisheries Service Endangered Species Act Section 7 Consultation Biological Opinion for Environmental Protection Agency Registration of Pesticides Containing Chlopyrifos, Diazinon, and Malathion, NOAA National Marine Fisheries Service, November 18, 2008.

Oregon Department of Agriculture Plans and Rules, Chart of Adoptions and Revisions.

Tillamook Bay Watershed TMDL, Oregon Department of Environmental Quality, 2001.

Umpqua Basin TMDL, Oregon Department of Environmental Quality, 2006.

Umpqua Basin, Oregon Department of Agriculture Progress Report, September 13, 2012.

**NOAA AND EPA INTERIM APPROVAL FOR BOUNDARY, AGRICULTURE AND URBAN MANAGEMENT MEASURES (January 13, 2004) (*see cover letter & pages 2-5*).**

<http://coast.noaa.gov/czm/pollutioncontrol/media/References%20C-14%20OR%20Interim%20Ltr%201-13-04.pdf>

**FINDINGS FOR THE OREGON COASTAL NONPOINT PROGRAM (January 13, 1998) (*see pages 3-4*).**

<http://coast.noaa.gov/czm/pollutioncontrol/media/References%20C-16%20EPA%20NOAA%20Ltr%20%20Enc%201-13-98.pdf>

#### **OTHER GUIDANCE, STATUTES AND RELATED INFORMATION**

Agricultural Water Quality Management, State of Oregon, ORS 568.900-933

Agricultural Water Quality Management Program, Mid-Coast Agricultural Water Quality Management Area, Oregon Department of Agriculture, OAR 603-95-2200.

Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters, 840-B-92-002, Office of Water, EPA, January 1993.

**Management Measures for Agriculture Sources**

[http://water.epa.gov/polwaste/nps/czara/upload/czara\\_chapter2\\_agriculture.pdf](http://water.epa.gov/polwaste/nps/czara/upload/czara_chapter2_agriculture.pdf)

**COASTAL NONPOINT POLLUTION CONTROL PROGRAM DOCKET: FINDING THAT OREGON HAS**

**SUBMITTED A FULLY APPROVABLE COASTAL NONPOINT PROGRAM**

<http://coast.noaa.gov/czm/pollutioncontrol/oregondocket/>

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[www.epa.gov/r10earth/tmdl.htm](http://www.epa.gov/r10earth/tmdl.htm)

[yosemite.epa.gov/R10/ecocomm.nsf/Watershed+Collaboration/State+Tribal+NPS](http://yosemite.epa.gov/R10/ecocomm.nsf/Watershed+Collaboration/State+Tribal+NPS)